



Basics of U.S. Chemical Right-to-Know and Release Reporting Requirements



October 2010



Objectives

- Overview of Basics of U.S. Chemical Right-to-Know and Accidental Release Reporting Laws.
- How do U.S. Laws relate to California Laws?
- What are the requirements?
- How to find information and help?

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Why Do We Need Right-to-Know and Accidental Release Prevention Laws?



Union Carbide,
Bhopal, India:
December 1984



Union Carbide,
Institute, West Virginia:
August 1985

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Why Do We Need Right-to-Know and Accidental Release Prevention Laws?



Bayer Crop
Science, Institute,
West Virginia
August 28, 2008

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Federal Chemical Right-to-Know and Release Reporting Statutes

- **EPCRA** - Emergency Planning and Community Right to Know Act (aka SARA Title III or EPCRA 304, 311 and 312)
- Submit annual chemical inventory reports (Tier II) and immediately report releases to State and local agencies
- **CERCLA** – Comprehensive Environmental Response Compensation and Liability Act Section 103
- Immediately Report Releases to National Response Center (NRC)

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Equivalency of These Federal Statutes in California

- **EPCRA** - Emergency Planning and Community Right to Know Act (aka SARA Title III or EPCRA 304, 311 and 312)
- In CA, Hazardous Materials Business Plans = Tier II
- CalEMA = SERC, and CUPA is local agency contact for release reporting.
- **CERCLA** – Comprehensive Environmental Response Compensation and Liability Act Section 103
- CERCLA 103 is a federal-only requirement.

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Emergency Planning and Inventory Reporting



EPCRA 311-312



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Some EPCRA Acronyms

- Extremely Hazardous Substance (EHS)
- Reportable Quantity (RQ)
(EPCRA Section 304 and CERCLA Section 103)
- Threshold Planning Quantity (TPQ)
(EPCRA Section 302, 311 and 312)

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EPCRA Hazard and Inventory Reporting

- Section 311 – requires facilities to provide MSDSs or a list sorted by hazard of extremely hazardous substances (EHSs) on-site to state and local agencies
- Section 312 – requires facilities to provide annual inventory (Tier II) of onsite chemicals above a certain quantity (TPQ)
- Inventory reporting reflects maximum onsite at any time during the calendar year
- In CA this requirement is satisfied by facility HMBP hazardous chemical inventories

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Inventory Reporting

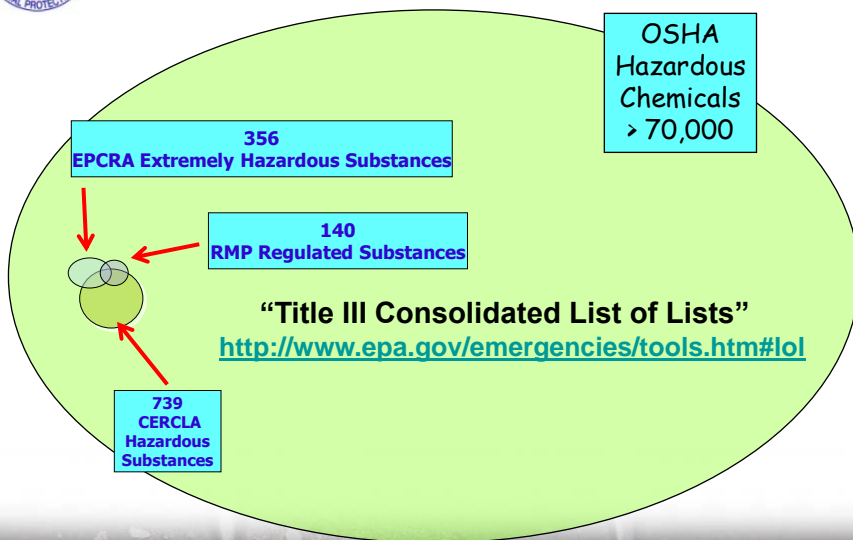
- EPCRA, CERCLA or OSHA chemicals above a threshold planning quantity (TPQ)
- What is a federal TPQ?
 - See EPA's "List of Lists"
www.epa.gov/emergencies/tools.htm#lol
 - If chemical is not shown on the LOL, then 10,000 lbs is TPQ (for federal rule)
- Some State of California TPQ's are different for HMBP reporting.

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How Many Chemicals Are Covered By These Statutes?



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SARA Title III List of Lists

Name	CAS/313 Category Codes	Section 302 (EHS) TPQ	Section 304 EHS RQ	CERCLA RQ	Section 313	RCRA Code	CAA 112(r) TQ
Chlorine	7782-50-5	100	10	10	313		2,500
Chlorine dioxide	10049-04-4				313		1,000
Chlorine monoxide	7791-21-1						10,000

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Exemptions from EPCRA Inventory Reporting

- Pesticides stored by end user
- Fertilizers held for sale to end user
- Formed products
- Regulated by the FDA
- Consumer packaged products
- Used in research laboratory or medical facility (under direct supervision of qualified person)
- RCRA hazardous wastes

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Exemptions from EPCRA Inventory Reporting (cont.)

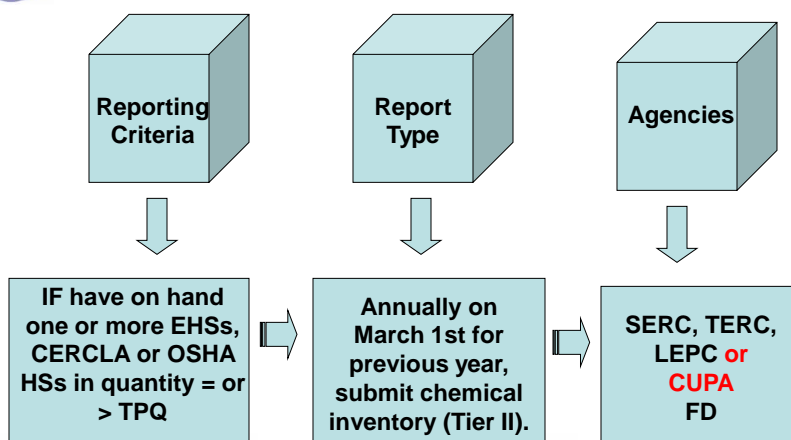
- Storage of less than 75,000 gallons gasoline stored in an underground storage tank (UST) which is in compliance with all other environmental requirements
- Storage of less than 100,000 gallons of diesel fuel stored in an underground storage tank (UST) which is in compliance with all other environmental requirements

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Inventory Reporting - EPCRA 312



NOTE: In CA, Tier II = HMBP

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Inventory Reporting - EPCRA 312 One Final Thought

Failure to report can result in a bigger problem and greater losses for the facility, emergency responders and the community.

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Release Reporting under EPCRA 304 and CERCLA 103

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Release Reporting: EPCRA 304/CERCLA 103

- In California – a “threat” or “potential” release which could cause harm.
- Federal Definition – release of a reportable quantity of a listed chemical to the environment.



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Releases - What Triggers Federal Reporting Requirements?

Any *facility* that accidentally *releases* into the *environment* either an EPCRA *Extremely Hazardous Substance* or a CERCLA *Hazardous Substance* in an amount greater than or equal to the minimum *reportable quantity (RQ)*.

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Release Reporting – Who/What/When



- **Who?**
 - Owner or operator (may include contractor)
 - NOT neighbor, fire department, CUPA, etc.
- **What?**
 - CONTACT INFO FOR CALL-BACK!!!
 - Where and what was released.
 - Approximately how much, if known,
 - When and is release still going on?
 - Injuries, evacuations, shelter-in-place?

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Release Reporting – Who/What/When

• When?

- Regulations say “Immediately”
- Immediate can be 15 minutes from when you know release has occurred!!!!



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Release Reporting – Who/What/When

To Whom?

- 911
- LEPC or **in California to the CUPA**
- State Emergency Response Commission
 - **California Emergency Management Agency (formerly OES)**
- National Response Center
 - 1-800-424-8802, or
 - <http://www.uscg.gov/nrc>.....

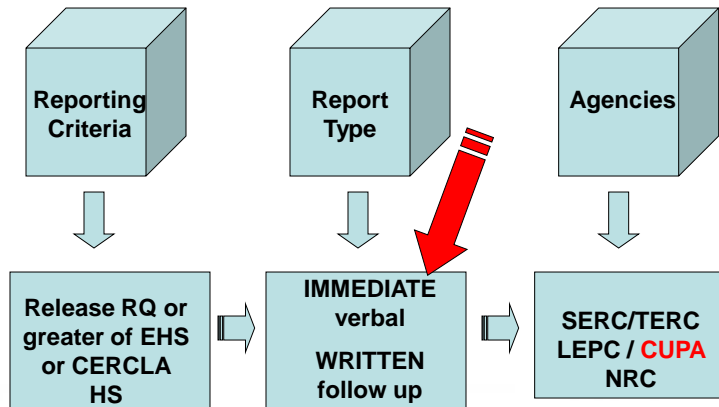
When??? Immediately!

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Release Notification Requirements (EPCRA 304 & CERCLA 103)



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Federal Enforcement of Right-to-Know and Release Reporting Requirements

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Costs of Noncompliance with EPCRA and CERCLA for Industry

- Apply to industry, contractor owners and operators on federal facilities
- Penalties go up to \$37,500 per day, per chemical, per point of compliance
- Criminal action possible for release reporting violations with penalties of up to \$37,500 per day, 3 years in prison, or both
- Citizens suits

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U.S. EPA Enforcement Options for EPCRA/CERCLA Violations

- Notice of Noncompliance (NON) (for EPCRA 311-312 violations only)
 - Zero penalty
 - Limited eligibility for this option
- Administrative penalty orders
- Judicial referrals (BIG \$\$ and time)
- Expedited Settlement Agreement (ESA) with reduced penalty for a limited universe of cases
- Criminal enforcement

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EPA Region 9 EPCRA Enforcement FY2010

- EPCRA §312 – Inventory Reporting:
10 cases - \$60,000 penalties
- EPCRA §304/CERCLA §103 – Release Reporting:
6 cases - \$219,933 penalties + \$55,700 SEPs

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<http://www.epa.gov/emergencies>

***U.S. EPA Pacific Southwest Region
Emergency Prevention and Preparedness***

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